## IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF ALABAMA NORTHERN DIVISION

| TIMOTHY PICKETT,  | )                          |
|---|----------------------------|
| Plaintiff,  | )<br>)                     |
| v.  | ) CASE NO. 2:21-CV-184-KFF |
| KILOLO KIJAKAZI,<br>Acting Commissioner of Social Security, | )                          |
| Defendant.  | )<br>)                     |

## **MEMORANDUM OPINION AND ORDER**

The Commissioner has filed an Unopposed Motion for Entry of Judgment Under Sentence Four of 42 U.S.C. § 405(g). Doc. 24. Sentence four of 42 U.S.C. § 405(g) authorizes the district court to "enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Commissioner of Social Security, with or without remanding the cause for a rehearing." 42 U.S.C. § 405(g). A district court may remand a case to the Commissioner for a rehearing if the court finds "the decision is not supported by substantial evidence [or the Commissioner or ALJ] incorrectly applied the law relevant to the disability claim." *Jackson v. Chater*, 99 F.3d 1086, 1092 (11th Cir. 1996). The parties in this case consented to entry of final judgment by the United States Magistrate Judge under 28 U.S.C. § 636(c). Docs. 26, 27.

Upon consideration of Defendant's motion, the Court finds reversal and remand necessary. The Commissioner concedes that remand is necessary for the ALJ to reevaluate the evidence of record and requests that, on remand, the Appeals Council instruct the ALJ

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to (1) obtain supplemental vocational expert testimony; (2) identify and resolve any

conflicts between the occupational evidence provided by the vocational expert and the

information in the Dictionary of Occupational Titles; (3) offer Plaintiff an opportunity for

a hearing; (4) take any further action to complete the administrative record; and (5) issue a

new decision. Doc. 24; Doc. 25 at 1.

Accordingly, it is ORDERED that the Commissioner's motion (Doc. 24) is

GRANTED and that the decision of the Commissioner is REVERSED and REMANDED

for further proceedings under 42 U.S.C. § 405(g) consistent with the Commissioner's

motion.

It is further ORDERED, in accordance with Bergen v. Comm'r of Soc. Sec., 454

F.3d 1273, 1278 n.2 (11th Cir. 2006), that Plaintiff has 90 days after receipt of notice of

an award of past due benefits to seek attorney's fees under 42 U.S.C. § 406(b). See also

Blitch v. Astrue, 261 F. App'x 241, 242 n.1 (11th Cir. 2008).

A separate judgment will issue.

DONE this 1st day of February, 2022.

/s/ Kelly Fitzgerald Pate

KELLY FITZGERALD PATE

UNITED STATES MAGISTRATE JUDGE